



M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT
EXECUTIVE CHAMBERS

May 19, 2010

The Honorable Susan Bysiewicz
Secretary of the State
20 Trinity Street
Hartford, CT 06106

Dear Secretary Bysiewicz:

I am returning to you without my signature Senate Bill 1, *An Act Concerning the Preservation and Creation of Jobs in Connecticut*.

This bill makes two significant changes to the State's tax code for the taxable year beginning on or after January 1, 2010 but prior to December 31, 2010 and the taxable year beginning on or after January 1, 2011 but prior to December 31, 2011 and purports to use the revenue resulting from one such change to replace revenue lost from the other.

For the taxable years mentioned above, Senate Bill 1 exempts from the business entity tax a business entity with net income of \$50,000 or less which has had at least one full-time employee for at least eight months of the year. The Office of Fiscal Analysis (OFA) estimates that this will result in a revenue loss of approximately \$12 million for fiscal years 11 and 12.

Senate Bill 1 also imposes a tax of 8.97 percent on individual bonuses of \$500,000.00 or more received from an entity that received funds directly from the federal Troubled Assets Relief Program (TARP). Bonuses that are subject to this new tax will not also be subject to the State personal income tax. OFA estimates that this tax will generate between \$2.8 and \$4.7 million in additional revenue in fiscal years 11 and 12.

Based upon the OFA estimates, the revenue from the TARP bonus tax is insufficient to replace the revenue lost from the exemptions from the business entity tax. Given the State's precarious fiscal condition, this fact alone is sufficient for me to veto this bill.

In addition, however, there are serious concerns about the constitutionality of the TARP bonus tax. As you know, some constitutional scholars have opined that this tax violates

the U.S. Constitution's prohibition on bills of attainder. Even our Attorney General, who ultimately concluded that the "legislation *is likely* to survive constitutional scrutiny," noted that "[t]his area of law is not often litigated and a court's final determination will depend on the circumstances surrounding the enactment."

If this tax were to be imposed, I am certain that a lawsuit would be brought to challenge its constitutionality. Such litigation could take years to be resolved, resulting in additional costs to the State. While I appreciate and agree with the sentiment that these executive bonuses were, at a minimum, inappropriate given the use of federal funds to bail out the entities that awarded the bonuses, I cannot allow this provision to become law given its dubious constitutionality.

For the aforementioned reasons and pursuant to Section 15 of Article Fourth of the Constitution of the State of Connecticut and Article III of the Amendments to the Constitution of the State of Connecticut, I am returning Senate Bill 1 without my signature.

Very truly yours,

A handwritten signature in cursive script, reading "M. Jodi Rell". The signature is written in dark ink and is positioned above the printed name and title.

M. Jodi Rell
Governor